

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

UNITED STATES OF AMERICA	:	
	:	
vs.	:	CRIMINAL NO. 1:13-CR-310-WSD
	:	1:14-CR-084-WSD
ARTAVIUS BROWN	:	
_____	:	

REPLY BRIEF IN SUPPORT OF MOTION TO WITHDRAW GUILTY PLEA

Comes now the defendant, ARTAVIUS BROWN, and files this reply brief in support of his motion to withdraw his guilty plea.

I. DISCUSSION

A. Close Assistance of Counsel

The government acknowledges that an evidentiary hearing may be necessary in order to determine whether Mr. Brown had the close assistance of counsel. Mr. Brown notes that, if the court decides to hold an evidentiary hearing, appointment of separate counsel outside the Federal Defender Program likely will be necessary, because current counsel would have a conflict that would preclude her from cross-examination of Mr. Brown's former counsel.

B. Prejudice to the Government

The government has requested the opportunity to put forth evidence at a hearing regarding the prejudice it would incur if Mr. Brown is permitted to withdraw his plea and proceed to trial. However, the government has not asserted what that evidence would show beyond the time and cost of a trial to which Mr. Brown was constitutionally entitled before his plea.

For all of the reasons stated in his initial brief, Mr. Brown respectfully submits that he can demonstrate a “fair and just reason” to withdraw his guilty plea, and requests that the court grant him an evidentiary hearing or permit him to withdraw his guilty plea. If the court grants the motion for an evidentiary hearing, Mr. Brown respectfully requests that substitute counsel be appointed so that Mr. Brown’s former counsel can be cross-examined.

Dated: This 14th day of July, 2014.

Respectfully submitted,

/s/ Nicole M. Kaplan
NICOLE M. KAPLAN
State Bar No. 382495
Attorney for Mr. Brown

Federal Defender Program, Inc.
Suite 1500, Centennial Tower
101 Marietta Street, N.W.
Atlanta, GA 30303
(404) 688-7530

CERTIFICATE OF SERVICE

This is to certify that this Brief has been prepared in the typeface Times New Roman, 14 pt., pursuant to LR 5.1B, and was electronically filed this day with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

AUSA John Ghose

Dated: This 14th day of July, 2014.

Respectfully submitted,

/s/ Nicole M. Kaplan
NICOLE M. KAPLAN